



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNDL-S, MNRL-S, FFL

### Introduction

The landlords seek compensation against their former tenant for various damages caused to the rental unit, along with a claim for unpaid rent, pursuant to section 67 of the *Residential Tenancy Act* (“Act”). In addition, they seek recovery of the filing fee.

The landlords filed an application on May 12, 2020 and a hearing was held on September 11 and October 30, 2020. The matter was adjourned for reasons outlined in the Interim Decision. At the October 30, 2020 hearing the landlords attended and were given a full opportunity to be heard, present testimony, and make submissions. The tenant did not attend the hearing, which began at 9:30 AM and ended at 9:49 AM.

### Preliminary Issue: Service of the Notice of Dispute Resolution Proceeding and Evidence

The landlords first served the Notice of Dispute Resolution Proceeding package on the tenant by Canada Post registered mail. On September 15, 2020, the Residential Tenancy Branch mailed, by way of regular mail, a new Notice of Dispute Resolution Proceeding to the tenant’s address on file. I asked the landlords to confirm how they knew that the address on file was the tenant’s current address for service.

The landlords testified that they thrice followed the tenant to the address, where he either sometimes resides or, in the alternative, where he is in frequent attendance (the address is where the tenant’s mother resides). In addition, the landlords’ current tenant has advised the landlords that the tenant lives at the above-noted address. Finally, the landlords have observed the tenant’s jeep parked at that address.

Based on the above evidence, I am satisfied that the landlords (and for that matter the Residential Tenancy Branch in respect of the second Notice of Dispute Resolution Proceeding) served the tenant in compliance and in accordance with sections 89(1)(e) and 71(1) of the Act. The tenant was served.

## Issues

1. Are the landlords entitled to any or all of the compensation claimed?
2. Are the landlords entitled to recovery of the filing fee?

## Background and Evidence

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application. Only relevant evidence necessary to explain my decision is reproduced below.

There was a tenancy which began on October 1, 2016 and ended on May 15, 2018 (as determined in the Interim Decision). Monthly rent was \$1,100 and the tenant paid a security deposit of \$550, which the landlords currently hold in trust.

The landlords seek compensation for extensive damage, repairs, and cleaning expenses caused by the tenant's wilful or negligent actions while he occupied the rental unit. As described in the landlords' application for dispute resolution:

There was damage done to every room affecting walls, ceilings, floors/carpets, doors, shower, toilet, windows, siding, screens, blinds, appliances. Pets were NOT allowed as per the tenancy agreement and he had at least one cat. This is evident by the massive flea infestation in the rental.

In support of their claim the landlords submitted into evidence various photographs, condition inspection and cleaning checklists and reports, and various receipts supporting the amounts claimed.

The landlords seek compensation for the following items (further detailed in the Monetary Order Worksheet): gas burned for gathering supplies, chemicals, insecticides, flea spray, toilet and vanity costs, new keys and new locks, cleaning supplies, floor cleaning, dump runs, painting, labour, construction repair costs, and, three months of rent for May, June and July 2018. The total amount is \$13,124.16, from which \$4,000.00 is deducted by way of an insurance payment, for a revised total of \$9,124.16.

While the tenancy was, at the point the tenant abandoned the rental unit, a month to month (or, periodic) tenancy, the landlords required "nearly 3 months to fully repair and clean the suite resulting in massive expenses and loss of rental income."

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Further, a party claiming compensation for damage or loss that results from the other's non-compliance must do whatever is reasonable to minimize the damage or loss.

In this dispute, the landlords claim that the tenant damaged the property to such a degree that not only did they suffer a significant loss of expenses, they also lost potential rent for three months.

Section 37(2) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Based on the photographs taken of the rental unit, the tenant left the rental unit about as unreasonably clean and damaged as possible. There is no doubt in my mind that the rental unit required extensive cleaning and repairs, and that it was so extensive that the landlords were unable to accommodate a new renter for three months. The landlords lost a significant amount of money not only cleaning and repairing the rental unit, but they also lost potential rental income as a result of how long the repairs took. Finally, the landlords submitted proof of the repair and cleaning expenses by way of receipts, and I find that they did what was reasonable to minimize those losses.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim for \$9,124.16.

As the landlords were successful in their application, I grant them \$100 for the application filing fee (per section 72 of the Act) for a total award of \$9,224.16.

I authorize the landlords to retain the tenant's security deposit of \$550 in partial satisfaction of the above-noted award. The balance of \$8,674.16 is issued by way of a monetary order to the landlords.

Conclusion

**I grant the landlords an \$8,674.17 monetary order, which must be served on the tenant.**

If the tenant refuses or fails to pay the landlords the amount owed, the landlords may file and enforce the order in the Provincial Court of British Columbia (Small Claims).

This decision is final and binding and is made on authority delegated to me under section 9.1(1) of the Act.

Dated: October 30, 2020

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Residential Tenancy Branch